

## **NOTICE of ALLOWANCE**

### ***Withdrawal of Previous Rejections***

1. The previous rejections under 35 USC 112 2nd paragraph are withdrawn in view of Applicants clarification of the prior art and the instant specification's description of all utrophins possessing four hinge regions (see Figure 3 specifically).
2. The rejection made under 35 USC 112 1<sup>st</sup> paragraph written description is withdrawn in view of Applicants clarification of said hinge regions noted above and the amendments to claim 19.
3. The rejection of the claims under 35 USC 102(a & e) as anticipated and/or in the alternative obvious under 35 USC 103(a) by Tinsley et al. (US 6518413) is withdrawn in view of the amendments to claim 19 and upon consideration of Applicants remarks which point out that Tinsley et al. do not teach a mini-utrophin having deletions of the central rod repeats or of the C-terminus.

## **REASONS FOR ALLOWANCE**

4. The following is an examiner's statement of reasons for allowance: the claims are drawn a vector containing a nucleic acid which encodes a microutrophin, which is defined in the specification on p.4. The microutrophin must comprise an N-terminal region of utrophin which comprises hinge region 1, at least four central rod repeats, and internal deletion of the central rod repeats 4-21, hinge region 4 and a C-terminal utrophin region all compared with respect to human utrophin. *All* of these regions are clearly defined and demarcated in Figure 3. Thus, as utrophin is an extremely well

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known protein in the art and as the specification including the Drawings clearly define each and every region as claimed, where they start and where they end, one skilled in the art is apprised of the overall structure(s) of the encoded polypeptides. Furthermore, one skilled in the art could clearly make and use the invention as claimed and the defined representative species in the specification is sufficient for determination of possession. The claims are furthermore deemed non-obvious over the art of record. Thus, the **allowed claims are 10, 12, 19, 20, 22, 23 and 25-32.**

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to SUZANNE M. NOAKES whose telephone number is (571)272-2924. The examiner can normally be reached on 7.00 AM-3.30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Manjunath Rao can be reached on 571-272-0939. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/SUZANNE M. NOAKES/  
Primary Examiner, Art Unit 1656  
05 January 2010